

Commodity Credit Corporation, USDA

§ 1410.40

FOTG to protect the functions and values of a wetland; or

(vii) On which there exist one or more of the following practices, installed or developed as a result of participation in the CRP or as otherwise required by the conservation plan:

- (A) Grass waterways;
- (B) Filter strips;
- (C) Shallow water areas for wildlife;
- (D) Bottom land timber established on wetlands;
- (E) Field windbreaks; and
- (F) Shelterbelts.

(2) With respect to terminations under this paragraph:

(i) Any land for which an early termination is sought by the participant must have an EI of 15 or less;

(ii) The termination shall become effective 60 days from the date the participant submits notification to CCC of the participant's desire to terminate the contract;

(iii) Acreage terminated under this provision is eligible to be re-offered for CRP during future signup periods, provided that the acreage otherwise meets the current eligibility criteria; and

(iv) Participants must meet conservation compliance requirements of part 12 of this title to the extent applicable to other land.

(h) Except as allowed and approved by CCC where the new owner of land enrolled in CRP is a Federal agency that agrees to abide by the terms and conditions of the terminated contract, the participant in a contract that has been terminated must refund all or part of the payments made with respect to the contract plus interest thereon, as determined by CCC, and shall pay liquidated damages as provided for in the contract. CCC may permit the amount to be repaid to be reduced to the extent that such a reduction will not impair the purposes of the program. Further, a refund of all payments need not be required from a participant who is otherwise in full compliance with the CRP contract when the land is purchased by or for the United States, as determined by CCC.

§ 1410.33 Contract modifications.

(a) As agreed between CCC and the participant, a CRP contract may be modified in order to:

(1) Decrease acreage in the CRP;

(2) Permit the production of an agricultural commodity under extraordinary circumstances during a crop year on all or part of the land subject to the CRP contract as determined by the Deputy Administrator;

(3) Facilitate the practical administration of the CRP; or

(4) Accomplish the goals and objectives of the CRP, as determined by the Deputy Administrator.

(b) CCC may modify CRP contracts to add, delete, or substitute practices when, as determined by the Deputy Administrator:

(1) The installed practice failed to adequately provide for the desired environmental benefit through no fault of the participant; or

(2) The installed measure deteriorated because of conditions beyond the control of the participant; and

(3) Another practice will achieve at least the same level of environmental benefit.

(c) Offers to extend contracts may be made as allowed by law.

(d) CCC may terminate a CRP contract if the participant agrees to such termination and CCC determines such termination to be in the public interest.

§§ 1410.34-1410.39 [Reserved]

§ 1410.40 Cost-share payments.

(a) Cost-share payments shall be made available upon a determination by CCC that an eligible practice, or an identifiable unit thereof, has been established in compliance with the appropriate standards and specifications.

(b) Except as otherwise provided for in this part, cost-share payments may be made only for the cost-effective establishment or installation of an eligible practice, as determined by CCC.

(c) Except as provided in paragraph (d) of this section, cost-share payments shall not be made to the same owner or operator on the same acreage for any eligible practices that have been previously established, or for which such owner or operator has received cost-share assistance from any Federal agency.

(d) Except as provided for under § 1410.9(c), cost-share payments may be

§ 1410.41

authorized for the replacement or restoration of practices for which cost-share assistance has been previously allowed under the CRP, only if:

(1) Replacement or restoration of the practice is needed to achieve adequate erosion control, enhance water quality, wildlife habitat, or increase protection of public wellheads; and

(2) The failure of the original practice was due to reasons beyond the control of the participant.

(e) The cost-share payment made to a participant shall not exceed the participant's actual contribution to the cost of establishing the practice and the amount of the cost-share may not be an amount that, when added to such assistance from other sources, exceeds the cost of the practices.

(f) CCC shall not make cost-share payments with respect to a CRP contract if any other Federal cost-share assistance has been, or is being, made with respect to the establishment of the cover crop on land subject to such contract.

§ 1410.41 Levels and rates for cost-share payments.

(a) As determined by the Deputy Administrator, CCC shall not pay more than 50 percent of the actual or average cost of establishing eligible practices specified in the conservation plan. CCC may allow cost-share payments for maintenance costs, consistent with the provisions of § 1410.40 and CCC may determine the period and amount of such cost-share payments.

(b) The average cost of performing a practice may be determined by CCC based on recommendations from the State Technical Committee. Such cost may be the average cost in a State, a county, or a part of a State or county, as determined by the Deputy Administrator.

(c) Except as otherwise provided, a participant may, in addition to any payment under this part, receive cost-share assistance, rental payments, or tax benefits from a State or a private organization in return for enrolling lands in CRP. However, as provided under § 1410.40(f), a participant may not receive or retain CRP cost-share assistance if other Federal cost-share assistance is provided for such acreage, as

7 CFR Ch. XIV (1-1-05 Edition)

determined by the Deputy Administrator. Further, under no circumstances may the cost-share payments received under this part, or otherwise, exceed the cost of the practice, as determined by CCC.

§ 1410.42 Annual rental payments.

(a) Subject to the availability of funds, annual rental payments shall be made in such amount and in accordance with such time schedule as may be agreed upon and specified in the CRP contract.

(b) Annual rental payments, except for land accepted that was formerly enrolled under the WBP, include a payment based on a weighted average soil rental rate or marginal pastureland rental rate, as appropriate, and an incentive payment as a portion of the annual payment of certain practices, as determined by the Deputy Administrator. Payments for land accepted that was formerly enrolled under the WBP are limited to annual rental payments received under the WBP.

(c) The annual rental payment shall be divided among the participants on a single contract as agreed to in such contract.

(d) The maximum amount of rental payments that a person may receive under the CRP for any fiscal year shall not exceed \$50,000. The regulations set forth at part 1400 of this chapter shall be applicable in making eligibility and "person" determinations as they apply to payment limitations under this part.

(e) In the case of a contract succession, annual rental payments shall be divided between the predecessor and the successor participants as agreed to among the participants and approved by CCC. If there is no agreement among the participants, annual rental payments shall be divided in such manner deemed appropriate by the Deputy Administrator and such distribution may be prorated based on the actual days of ownership of the property by each party.

(f) CCC shall, when appropriate, prepare a schedule for each county that shows the maximum soil rental rate